

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
Kenneth Lacen and Brandon Smith,

: Index Number:  
: Date Purchased:  
: Date Filed:

Plaintiff

: SUMMONS

-against-

:

City of New York, New York City Police Department,  
Detective Michael Smyth, Shield 420 of the NARCBBX  
Command, Detective Jodi Brown, Shield 4057 of the  
NARCBBX Command and New York City Police Officers  
John Doe,

:

:

:

Plaintiff Lacen's residence is:  
: 1065 Summit Avenue  
Bronx, NY 10472

Defendants

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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to Answer the Verified Complaint in this action and serve a copy of your answer, or if the Verified Complaint is not served with this Summons to serve a notice of Appearance on the Plaintiffs attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York) and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

The basis of venue designated is that the incident occurred in Bronx County.

Dated: January 27, 2017  
Bronx, NY

Yours, etc.,

LAW OFFICES OF JASON A. STEINBERGER, LLC  
Attorney for Plaintiff  
505 Eighth Avenue  
Suite 701  
New York, NY 10018  
(646) 256-1007

To: City of New York

New York City Police Department

Detective Michael Smyth, Shield 420 of the NARCB BX Command

Detective Jodi Brown, Shield 4057 of the NARCB BX Command

New York City Police Officers John Doe

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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Kenneth Lacen and Brandon Smith,	:
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Plaintiff,	:
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-against-	:
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City of New York, New York City Police Department,	:
Detective Michael Smyth, Shield 420 of the NARCBX	:
Command, Detective Jodi Brown, Shield 4057 of the	:
NARCBX Command and New York City Police Officers	:
John Doe,	:
	:
Defendants.	:
-----X	

VERIFIED COMPLAINT

Plaintiff, by and through his attorney, JASON A. STEINBERGER, Esq, for his complaint,  
alleges upon information and belief as follows:

**STATEMENT OF FACTS**

1. That at all times hereinafter mentioned, Plaintiff Kenneth Lacen, (hereinafter referred to as "LACEN") resides in Bronx County, State of New York.
2. That at all times hereinafter mentioned, Plaintiff Brandon Smith, (hereinafter referred to as "SMITH") resides in Bronx County, State of New York.
3. That at all times hereinafter mentioned Defendant, Detective Michael Smyth, Shield 420 of the NARCBX Command (hereinafter referred to as "SMYTH") was employed by the New York City Police Department.
4. That at all times hereinafter mentioned Defendant, Detective Jodi Brown, Shield 4057 of the NARCBX Command (hereinafter referred to as "BROWN") was employed by the New York City Police Department.

5. That at all times hereinafter mentioned Defendant, New York City Police Officers John Doe, those officers involved in the arrest of LACEN and SMITH, (hereinafter referred to as "DOES) were employed by the New York City Police Department.
6. That at all times hereinafter mentioned, Defendant City of New York, is a municipal corporation organized and existing under the laws of the State of New York, with a principal place of business located at 1 Centre Street, County of New York State of New York.
7. That at all times hereinafter mentioned, Defendant New York City Police Department, is an agency created and maintained by the above municipal government.
8. On or about April 5, 2016 notice required by Municipal Law 50-E was given to City of New York, by personal service for Plaintiffs. Said notice set forth the facts underlying Plaintiffs' claim against the City of New York, and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York.
9. On or about July 15, 2016 a hearing required by Municipal Law 50-H was conducted as to both Plaintiffs. At said hearing, Plaintiffs testified and set forth the facts underlying her claim against the City of New York and its agents and employees. To date, no answer has been received by Plaintiffs and no compensation has been offered by the City of New York in response to this claim, and more than thirty (30) days have elapsed.
10. That on or about March 12, 2015 at approximately 4:00PM in the vicinity of East 165 Street and Woodcrest Avenue, Bronx NY, Plaintiffs were waiting outside of a local Chinese restaurant for the food that they had ordered when they were stopped, handcuffed and arrested by SMYTH, BROWN and DOES.
11. That at no time did Plaintiffs engage in any unlawful or illegal activity.
12. That at no time did Plaintiffs engage in selling or attempting to sell marijuana.

13. That Plaintiffs were transported to the 44 precinct in Bronx, NY.
14. That when Plaintiffs were removed to the 44 Precinct, he was placed into a cell with several males for several hours.
15. That while Plaintiffs inside of the 44 Precinct, they were each strip searched and that nothing of an illegal or unlawful nature was found.
16. That after several hours of being held in a cell, Plaintiffs were removed to Bronx County Central Booking located at 215 East 161 Street, Bronx NY.
17. That while at Bronx County Central Booking, Plaintiffs were held in a cell with other males for several hours.
18. That on or about March 14, 2015, Plaintiff were each arraigned and charged with Criminal Possession of Marijuana.
19. That at the time of their arrest, Plaintiffs were each released on their own recognizance and ordered to return to court.
20. That on and between March 14, 2015 and January 29, 2016, Plaintiffs made several court appearances until the matter was dismissed upon application of the Bronx District Attorney.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS**

21. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 20, as if more fully stated herein at length.
22. That Defendants acted with actual malice toward LACEN and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff.
23. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.

24. That as a result of the actions by Defendants, LACEN was traumatized and fears for his physical safety when he sees and encounters members of the New York City Police Department from that day and onward.

25. That as a result of the Defendants' actions, LACEN has been unable to sleep.

26. That as a result of the Defendants' actions, LACEN was forced to miss multiple days of work.

27. That as a result of the Defendants' actions LACEN sustained damage to his person in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS**

28. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 27, as if more fully stated herein at length.

29. The intentional verbal abuse, false arrest, false imprisonment and malicious prosecution by Defendants violated the rights of the LACEN as guaranteed by the Fourth, Fifth and Eighth Amendments to the United States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

30. Defendants having no lawful authority to arrest LACEN, did, nevertheless, unlawfully arrest LACEN with actual malice toward him and with willful and wanton indifference to and deliberate disregard for his constitutional rights. Thus LACEN is entitled to both compensatory and exemplary damages.

**AS AND FOR A THIRD CAUSE OF ACTION AS AGAINST DEFENDANTS**

31. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 30, as if more fully stated herein at length.

32. Defendants conspired to violate LACEN's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable. Thus LACEN is entitled to both compensatory and exemplary damages, as well as attorney's fees.

**AS AND FOR A FOURTH CAUSE OF ACTION AS AGAINST DEFENDANTS**

33. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 32, as if more fully stated herein at length.

34. LACEN was verbally abused, falsely arrested, falsely imprisoned and maliciously prosecuted by Defendants in a manner that was extreme, outrageous and unjustified and caused LACEN to suffer physical and severe emotional distress for which the Defendants are individually liable.

35. The verbal abuse, false arrest, false imprisonment and malicious prosecution on and of Plaintiff by Defendants were unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of LACEN. LACEN is thus entitled to compensatory and exemplary damages.

36. That during the pendency of the case, Defendants maliciously prosecuted LACEN by continuing to cooperate in a prosecution when Plaintiff should never have been arrested. LACEN is thus entitled to compensatory and exemplary damages.

**AS AND FOR A FIFTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND  
NEW YORK CITY POLICE DEPARTMENT**

37. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 36, as if more fully stated herein at length.

38. At all times pertinent hereto, SMYTH, BROWN and DOES were acting within the scope of their employment as an officer of the New York City Police Department and City of New York.

39. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that SMYTH, BROWN and DOES committed within the scope of his employment.

**AS AND FOR A SIXTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND  
NEW YORK CITY POLICE DEPARTMENT**

40. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 39, as if more fully stated herein at length.

41. The City of New York and New York City Police Department's failure to provide adequate training and supervision to its police officers constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff. Plaintiff is thus entitled to compensatory exemplary damages.



**AS AND FOR A SEVENTH CAUSE OF ACTION AS AGAINST DEFENDANTS**

42. LACEN repeats, reiterates and realleges the allegations contained in paragraphs 1 through 41, as if more fully stated herein at length.

43. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of LACEN.

44. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of LACEN.

**AS AND FOR AN EIGHTH CAUSE OF ACTION AS AGAINST DEFENDANTS**

45. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 44, as if more fully stated herein at length.

46. That Defendants acted with actual malice toward SMITH and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff.

47. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.

48. That as a result of the actions by Defendants, SMITH was traumatized and fears for his physical safety when he sees and encounters members of the New York City Police Department from that day and onward.

49. That as a result of the Defendants' actions, SMITH has been unable to sleep.

50. That as a result of the Defendants' actions, SMITH was forced to miss multiple days of work.

51. That as a result of the Defendants' actions SMITH sustained damage to his person in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

**AS AND FOR A NINTH CAUSE OF ACTION AGAINST DEFENDANTS**

52. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 51, as if more fully stated herein at length.

53. The intentional verbal abuse, false arrest, false imprisonment and malicious prosecution by Defendants violated the rights of the SMITH as guaranteed by the Fourth, Fifth and Eighth Amendments to the Unites States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

54. Defendants having no lawful authority to arrest SMITH, did, nevertheless, unlawfully arrest SMITH with actual malice toward him and with willful and wanton indifference to and deliberate disregard for his constitutional rights. Thus SMITH is entitled to both compensatory and exemplary damages.

**AS AND FOR A TENTH CAUSE OF ACTION AS AGAINST DEFENDANTS**

55. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 54, as if more fully stated herein at length.

56. Defendants conspired to violate SMITH's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for

which Defendants are individually liable. Thus SMITH is entitled to both compensatory and exemplary damages, as well as attorney's fees.

**AS AND FOR AN ELEVENTH CAUSE OF ACTION AS AGAINST DEFENDANTS**

57. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 56, as if more fully stated herein at length.

58. SMITH was verbally abused, falsely arrested, falsely imprisoned and maliciously prosecuted by Defendants in a manner that was extreme, outrageous and unjustified and caused SMITH to suffer physical and severe emotional distress for which the Defendants are individually liable.

59. The verbal abuse, false arrest, false imprisonment and malicious prosecution on and of Plaintiff by Defendants were unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of SMITH. SMITH is thus entitled to compensatory and exemplary damages.

60. That during the pendency of the case, Defendants maliciously prosecuted SMITH by continuing to cooperate in a prosecution when Plaintiff should never have been arrested. SMITH is thus entitled to compensatory and exemplary damages.

**AS AND FOR A TWELFTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK  
AND NEW YORK CITY POLICE DEPARTMENT**

61. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 60, as if more fully stated herein at length.

62. At all times pertinent hereto, SMYTH, BROWN and DOES were acting within the scope of their employment as an officer of the New York City Police Department and City of New York.

63. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that SMYTH, BROWN and DOES committed within the scope of his employment.

**AS AND FOR A THIRTEENTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT**

64. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 63, as if more fully stated herein at length.

65. The City of New York and New York City Police Department's failure to provide adequate training and supervision to its police officers constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff. Plaintiff is thus entitled to compensatory exemplary damages.

**AS AND FOR A FOURTEENTH CAUSE OF ACTION AS AGAINST DEFENDANTS**

66. SMITH repeats, reiterates and realleges the allegations contained in paragraphs 1 through 65, as if more fully stated herein at length.

67. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of SMITH.

68. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory

that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of SMITH.

WHEREFORE, Plaintiffs each demand judgment against the Defendants as follows:

**On the first cause of action**, a sum within the jurisdiction of this Court and in excess of all inferior courts;

**On the second cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

**On the third cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

**On the fourth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the Defendants' wanton and willful actions;

**On the fifth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

**On the sixth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

**On the seventh cause of action**, a sum within the jurisdiction of this Court and in excess of all inferior courts.

**On the eighth cause of action**, a sum within the jurisdiction of this Court and in excess of all inferior courts;

**On the ninth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

**On the tenth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

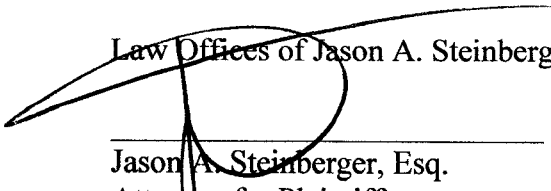
**On the eleventh cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the Defendants' wanton and willful actions;

**On the twelfth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

**On the thirteenth cause of action**, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

**On the fourteenth cause of action**, a sum within the jurisdiction of this Court and in excess of all inferior courts.

Law Offices of Jason A. Steinberger, LLC



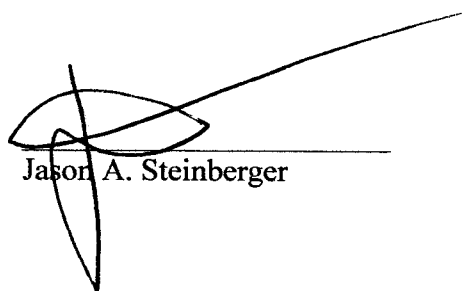
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Jason A. Steinberger, Esq.  
Attorney for Plaintiffs  
505 Eighth Avenue  
Suite 701  
New York, NY 10018  
(646) 256-1007

## STATE OF NEW YORK: COUNTY OF BRONX

The undersigned, an attorney admitted to practice in the State of New York, under penalties of perjury, affirms the following to be true: Affirmant has read the foregoing Complaint and the contents thereof; the same is true to affirmant's own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters affirmant believes it to be true; and the reason this verification is made by affirmant and not by the plaintiff is because the plaintiff is not within the county in which your affirmant maintains his principal office. The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are communications with the plaintiff, review of records and documents within affirmant's possession.

Affirmed: January 27, 2017



Jason A. Steinberger



**Index Number:****SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

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**KENNETH LACEN AND BRANDON SMITH,**

Plaintiffs

**-against-**

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**CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, DETECTIVE  
MICHAEL SMYTH, SHIELD 420 OF THE NARCBX COMMAND, DETECTIVE JODI  
SMITH, SHIELD 4057 OF THE NARCBX COMMAND AND NEW YORK CITY  
POLICE OFFICERS JOHN DOE,****Defendant.**

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**SUMMONS AND COMPLAINT**

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**LAW OFFICES OF JASON A. STEINBERGER, LLC**505 Eighth Avenue  
Suite 701  
New York, NY 10018

To:

Attorney (s) for Defendant(s)

Service of a copy of the within

is hereby admitted.

Dated:

\_\_\_\_\_  
Attorney(s) for**PLEASE TAKE NOTICE**☐

that the within is a (certified) true copy of

☐

entered in the office of the clerk of the within named Court on

**NOTICE  
OF ENTRY**☐that an Order of which the within is a true copy will be presented for settlement to the Hon.  
once of the Judges of the within named Court,**NOTICE OF  
SETTLEMENT** at  
on

200 , at m.

Dated:

**JASON A. STEINBERGER, ESQ.  
505 Eighth Avenue, Suite 701  
New York, NY 10018**

To:

Attorney(s) for